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09/444,889	11/22/1999	MICHAEL G. MIKURAK	ANDIP367	9216

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EXAMINER

VAN DOREN, BETH

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 07/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/444,889

Applicant(s)

MIKURAK, MICHAEL G.

Examiner

Beth Van Doren

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The following Final office action is in response to communications received 05/23/03. Claims 1-16 have been canceled. Claims 17-31 have been added. Claims 17-31 are now pending in this application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 17 does not distinctly point out and claim the subject matter that the applicant regards as his invention because the terms of the claim and the elements do not interrelate in a manner that clearly depicts what the applicant regards as his invention. The preamble of the claim states that disclosed is “a method for a first business entity to provide maintenance and service [...] between at least two other independent business entities such as service providers, vendors, resellers, manufacturers and the like”. The first entity (business entity II) is said to cause the elements of the claim. Element (a) recites that a notice is received from at least one manufacturer (business entity II) that uses the network. Element (b) recites that a request is received from at least one service provider (business entity III) that uses the network. Elements (c) and (d) relate to scheduling and transmissions that occur with regards to business entity II and business entity III. Element (e) states that business entity I monitors operation of entities

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selected from server processes, disk space, etc. It is unclear in this element if the term “entities” refers to the listed computer functions, the business entities, or some other entities that have improper antecedent basis in the claim. Element (f) discusses that business entity I updates “items” selected from the group consisting of tax rates, pricing, merchandizing content, and currency exchange rates. However, it is unclear, based on the limitations of the claim, how this element relates to any of the preceding elements. Element (g) discusses that business entity I synchronizes external data and internal data of the system. Again, it is unclear, based on the limitations of the claim, how this element relates to the preceding elements because it does not appear to any way be a step in anything that precedes it. Element (h) discusses managing contact information for user feedback, though it is unclear based on the claim if this user is one of the business entities or a new user introduced to the claim and it is further unclear, based on the other elements of the claim, how this claim relates to the other method steps. Finally, element (i) discusses altering the aforementioned items based on profiles of the users. Again, is unclear as to who these users are and how this element relates to elements (a)-(d) and (g). Examiner points out that elements (e)-(i) do not appear to require business entity II and business entity III of the preamble at all.

Therefore, based on the inconsistent terminology and the fact that elements (e)-(i) do not appear to relate as steps to the method of (a)-(d), Examiner asserts that the subject matter regarded as the invention has not been particularly pointed out and distinctly claimed.

4. Claims 22 and 27 contain the same deficiencies as claim 17 and are therefore also rejected under 35 USC § 112, second paragraph. Claims 18-21, 23-26, and 28-31 are dependant on claims 17, 22, and 27 and therefore contain the same deficiencies.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feidelson et al. (U.S. 6,345,261) in view of Kirkevold et al. (U.S. 6,263,332).

6. As per claim 17, Feidelson et al. teaches a method for a first business entity to provide maintenance and service for a network-based supply-chain framework between at least two other independent business entities such as service providers, vendors, resellers, manufacturers and the like, comprising:

causing a first business entity using a network to:

(e) monitor operation of entities selected from the group consisting of server processes, disk space, memory availability, CPU utilization, access time to server, and a number of connections in a network-based supply chain for efficient system operation and problem prevention (See column 5, lines 20-31 and 38-59, and column 13, lines 28-29, which discuss a system administrator monitoring the operation of a system such as load balancer, server, file transfer protocols, etc.);

(f) update items selected from the group consisting of merchandising content, currency exchange rates, tax rates, and pricing in the network-based supply chain at predetermined intervals (See column 5, lines 48-59 and 65-67, column 6, lines 1-2, column 8, lines 50-67, column 9, lines 13-20, and column 11, lines 51-60, wherein merchandising content,

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exchange rates, and pricing in the network based supply chain are updated to show members the availability of products and funds amounts in the network based supply chain);

(g) synchronize external data stored separately from the network-based supply chain with internal data stored on the network-based supply chain in order to make the external data accessible to the rest of the network-based supply chain system (See column 9, lines 29-51, column 10, lines 25-35, column 11, lines 8-13, 20-30, and 51-60, and column 14, lines 60-65, which disclose that the data stored on the internal central system of the supply chain is updated and synchronized with the external data of the merchant and member systems. By doing so, the external data is accessible consistently throughout the system);

(h) manage contact information received from users of the network-based supply chain to allow responses to user feedback (See at least column 5, lines 60-65, column 8, lines 1-5 and 45-50, column 9, lines 23-28, column 10, lines 10-20, and column 11, lines 30-39, which discuss a member user registering with the system and this registration information (which includes contact information) being managed by the system. The member user then interacts with the system, these interactions being tracked, and the system responds to the user based on these tracked interactions); and

(i) alter the items based on profiles of the users of the network-based supply chain (See column 5, lines 38-46 and 65-67, column 6, lines 1-2 and 21-24, column 8, lines 50-67, column 9, lines 23-28, column 11, lines 60-66, column 12, lines 54-64, wherein the items are altered based on the profile of the member user interacting with the network based supply chain).

However, Feidelson et al. does not expressly disclose causing a first business entity using a network to (a) receive at least one notice for recommended maintenance and service from at

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least one manufacturer which uses a network, (b) receive at least one request for maintenance and service from at least one service provider which uses the network, (c) schedule maintenance and service using the at least one notice and the at least one request, or (d) transmit the schedule to at least the one manufacturer and the one service provider.

Feidelson et al. also does not expressly disclose (e) monitoring the operations of the network specifically for problem prevention or (h) responding specifically to user feedback.

Kirkevold et al. discloses causing a first business entity using a network to:

(a) receive at least one notice for recommended maintenance and service from at least one manufacturer which uses a network (See column 2, lines 1-11, column 3, lines 15-19, column 4, lines 55-60, column 6, lines 35-50, column 8, lines 15-29, column 9, lines 30-40, column 14, lines 10-33, column 17, lines 10-35, wherein at least one notice is received at a first business entity for recommended maintenance and service from at least one manufacturer);

(b) receive at least one request for maintenance and service from at least one service provider which uses the network (See at least the abstract, column 3, lines 35-45, column 5, lines 8-15 and 35-40, column 6, lines 1-21, wherein when the customer information is input into the network at a data entry terminal by a service provider which generates a repair order for maintenance and service);

(c) schedule maintenance and service using the at least one notice and the at least one request (See at least the abstract and column 6, lines 20-45 and 60-67, wherein maintenance and service is scheduled and performed using the notice and request of the system); and

(d) transmit the schedule to at least the one manufacturer and the one service provider (See at least the abstract, column 2, lines 1-11, column 3, lines 15-19 and 35-45, column 4, lines

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55-60, column 5, lines 8-15 and 35-40, column 6, lines 1-15 and 20-50 and 60-67, column 8, lines 15-29, column 9, lines 30-40, column 14, lines 10-33, column 17, lines 10-35, wherein the schedule and information of the system, including schedules, is transmitted to at least the one manufacturer and the one service provider using the system).

However, Kirkevold et al. does not expressly disclose (e) monitoring the operations of the network specifically for problem prevention or (h) responding specifically to user feedback.

Feidelson et al. teaches a network used by a business entity. Kirkevold et al. teaches an integrated business network with multiple business entities that schedules and performs maintenance and service. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the e-commerce capabilities of Feidelson et al. and Kirkevold et al. in order to increase the capability of a business in providing a variety of services to users through the addition of features. Kirkevold et al. discusses the use of a standardized open-architecture, capable of integrating additional computerized devices and components so that the network is not restrictive, as described in column 3, lines 10-15, and column 4, lines 45-55.

Furthermore, with regards to (e) monitoring the operations of the network specifically for problem prevention or (h) responding specifically to user feedback, it was old and well known at the time of the invention that the job of a system administrator is to monitor the operation of the entities of the network for network efficiency and problem prevention. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have the system administrator of Feidelson et al. that is monitoring the operation of the entities of the network monitor these entities for the purpose of network efficiency and problem prevention in order to increase the quality and performance of the network based supply chain.

Feidelson et al. also teaches responses being sent to users that embody the tracked information about the interactions of said users as well as the requested registration forms filled out and fed back into the system by said users. Feedback, as recited in the limitation of claim 1, is nothing more than data input by a user. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include feedback in the input and interactions to which the system of Feidelson et al. responds in order to increase the user friendliness of the system by increasing its ability to interact with a member user.

7. As per claim 18, Feidelson et al. discloses a method further comprising the step of performing load balancing services that initiate and stop processes as utilization levels vary in the network-based supply chain (See column 5, lines 38-47, which discloses load balancing services that provide balancing the load taken on between servers, when needed).

8. As per claim 19, Feidelson et al. teaches a method wherein the step of managing contact information includes tracking the interactions of the users, these interactions causing responses to the users of the network-based supply chain (See at least column 5, lines 60-65, column 8, lines 1-5 and 45-50, column 9, lines 23-28, column 10, lines 10-20, and column 11, lines 30-39, which discuss a member user registering with the system and this registration information (which includes contact information) being managed by the system. The member user then interacts with the system, these interactions being tracked, and the system responds to the user based on these tracked interactions). However, Feidelson et al. does not expressly disclose the specific response being tracked.

Kirkevold et al. does not expressly disclose the specific response being tracked.

Feidelson et al. teaches a network used by a business entity. Kirkevold et al. teaches an integrated business network with multiple business entities that schedules and performs maintenance and service. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the e-commerce capabilities of Feidelson et al. and Kirkevold et al. in order to increase the capability of a business in providing a variety of services to users through the addition of features. Kirkevold et al. discusses the use of a standardized open-architecture, capable of integrating additional computerized devices and components so that the network is not restrictive, as described in column 3, lines 10-15, and column 4, lines 45-55.

Furthermore, Feidelson et al. teaches responses being sent to users that embody the tracked information about the interactions of said users. It would have been obvious to one of ordinary skill in the art at the time of the invention to track the written responses of Feidelson et al. while tracking the interactions of the member users that cause these written responses in order to increase the comprehensiveness of the data records stored about the member users.

9. As per claim 20, Feidelson et al. discloses a method wherein one of the items altered based on the profiles of the users includes price, and the price is altered to reflect a discount assigned to the user (See at least column 5, lines 65-67, and column 6, lines 1-2, which discusses altering items such as price to reflect discounts promised by merchants to members).

10. As per claim 21, Feidelson et al. discloses a method further comprising the first business entity using the network prior to the synchronization of the external data to perform a search for the internal data in the network-based supply chain (See column 9, lines 29-51, column 10, lines 25-35, column 11, lines 8-13, 20-30, and 31-60, and column 14, lines 60-65, which disclose that

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prior to updating the internal data with data from the external systems, a search is performed on the internal data to see what data is needed from the external systems).

11. As per claims 22-26, claims 22-26 are system versions of claims 17-21, respectively. Since the specification provides nothing more than a system that is a network implemented method, claims 22-26 are rejected on the same grounds as the method of claims 17-21, respectively.

12. As per claims 27-31, claims 27-31 are article of manufacture versions of claims 17-21, respectively. Since the specification provides nothing more than projected general computer program code embodied on a general purpose computer readable medium, claims 27-31 are rejected on the same grounds as the method of claims 17-21, respectively.

Response to Arguments

13. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new grounds of rejection established above, as necessitated by amendment.

14. Applicant's arguments with respect to claims 17-31 have been considered but are moot in view of the new grounds of rejection established above, as necessitated by amendment.

Examiner points out the term "three party system" appears nowhere in claim 17-31. Rather, claims 17, 22, and 27 recite the limitation "causing a first business entity using a network to:" which interacts with a manufacturer that uses a network and a service provider that uses the network in elements (a)-(d). Claims 18-21, 23-26, and 28-31 depend from claims 17, 22, and 27, respectively, do not recite this term either. Examiner points out that she did not rely upon Feidelson et al. (U.S. 6,345,261) to teach these elements. Elements (e)-(i) only require a first

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business entity, and therefore Feidelson et al. has been relied upon to teach and suggest the limitations of these elements.

Since it has been noted that the feature upon which applicant relies (i.e., the “three party system”) is not recited in the rejected claims, Examiner points out that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore, if the novelty of the invention is this “three party system”, this feature should be clearly recited in the pending claims.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Huang et al. (U.S. 6,151,582) discloses a system that coordinates requests for service and information in a network-based supply chain.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (703) 305-3882. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

bvd
bvd
July 25, 2003

Susanna Diaz
Susanna Diaz
Primary Examiner
AU. 3623